

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1310 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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THAKORBHAI NATHUBHAI PATEL

Versus

APPELLATE AUTHORITY & ULC TRIBUNAL

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Appearance:

MR MI HAVA for Petitioner

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 25/02/97

ORAL JUDGEMENT

The Urban Lands Tribunal at Ahmedabad has decided two appeals under the common order dated November 26,1996. So far as the case of the present petitioner is concerned, it has been stated by the learned Tribunal that the hearing was fixed at Vadodara on November 14,1996 and that the necessary intimation was given to the power of attorney of the land holder, but nobody had appeared on behalf of the petitioner.

2. The contention being advanced by the learned counsel Mr. Hava for the petitioner is that the attorney of the petitioner was not keeping well and was under the treatment of a physician Dr. Kishore Kapadia at Surat and that therefore, he had submitted the necessary application for adjournment. According to the learned counsel, this was sent under a registered post acknowledgment due letter and that the letter was sent not only to the office of the Tribunal at Ahmedabad, but also at the circuit house, Vadodara where the hearing was to take place. It is also pointed out by the learned counsel Mr. Hava for the petitioner that despite this, the learned Tribunal has taken the view that nobody had remained present on behalf of the petitioner.

3. Upon the verification of the material annexed to the petition, it is apparently clear that the attorney of the petitioner was not well and was under the treatment of Dr. Kishore Kapadia. This is apparent from the certificate at Annexure "B". Annexure "C" happens to be the application of the petitioner for obtaining an adjournment. Annexure "C" would go to show that the above-said application came to be received by the office of the Tribunal at Ahmedabad on 14.11.1996. The other literature would go to show that the application was also forwarded to the circuit house, Vadodara where the Tribunal was to hold the sitting.

4. Thus, it is clear that the power of attorney of the petitioner had asked for an adjournment by following the due procedure of law, but there is absolutely no mention in this respect in the orders under challenge. It is clear that the power of attorney of the petitioner was prevented by a valid cause from appearing before the Tribunal and that aspect of the case has not at all been taken into consideration by the Tribunal. The only course open for this Court is to remand the matter to the Tribunal for a fresh decision after affording a reasonable opportunity of being heard to the parties. I order accordingly. Rule is made absolute to the above said extent only with no order as to costs. Both the appeals disposed of by the learned Tribunal under the above-said orders shall stand restored to the Tribunal's file.

darji

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